

ORDINANCE NO. 3838

AN ORDINANCE CREATING A NEW ARTICLE IN CHAPTER THREE OF THE CITY CODE OF THE CITY OF DODGE CITY TITLED "ARTICLE 9. COMMON CONSUMPTION AREAS".

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DODGE CITY, KANSAS:

SECTION 1: Section 3-901 shall be added to the City Code and shall read as follows:

"Purpose.

It is the purpose of this Chapter to allow, by a Resolution approved by the City Commission, the establishment of one or more common consumption areas within the City, pursuant to the provisions and requirements of K.S.A. 41-2659 and amendments thereto. The City Commission is hereby authorized to designate and approve the location, size, security, and hours of operation of the common consumption areas, as well as to impose any other reasonable conditions for the same.

For purposes of this Chapter, "common consumption area" shall mean the same as defined by K.S.A. 41-2659 and amendments thereto. In addition, "licensee(s)" shall mean an establishment licensed for the sale and/or consumption of alcohol by the Kansas Alcohol Beverage Control (ABC).

This Chapter is intended to conform with state law and the regulations adopted by the Kansas Alcohol Beverage Control (ABC) and should be interpreted accordingly."

SECTION 2: Section 3-902 shall be added to the City Code and shall read as follows:

"Permit Application.

- (A) The City, a person who is a Kansas resident, or an organization or business that has its principal place of business in Kansas, who desires to hold a permit authorizing the consumption of alcoholic liquor or cereal malt beverages in an area, which is not otherwise subject to a license issued pursuant to the Kansas Liquor Control Act or the Club and Drinking Establishment Act, shall complete an application upon forms provided by the City Clerk. Such completed form and all applicable fees shall be filed with the City Clerk. The applicant shall provide all information requested by such forms

and should allow a minimum of 30 days for review and consideration for approval of a properly completed application.

- (B) The permit application shall include the following information:
- (1) The name, address, phone number, and date of birth of the applicant.
 - (2) If a corporation, a copy of the Articles of Incorporation and Bylaws and a list of all directors and officers of the corporation.
 - (3) A detailed and legible map of the proposed common consumption area including:
 - (i) Location of any physical barriers and/or signage designating the consumption area;
 - (ii) Exhibits showing examples of planned signage for review;
 - (iii) Entrances and exits;
 - (iv) Location of attached licensed premises;
 - (v) Identification of licensed premises that are adjacent but not to be attached to the proposed common consumption area;
 - (vi) The current zoning classifications for any proposed common consumption area; and
 - (vii) Approximate location of security personnel.
 - (4) A detailed description of security arrangements within the proposed common consumption area.
 - (5) A list of dates, days of the week, and hours of operation of the proposed common consumption area.
 - (6) Documentation showing possession and/or control of the proposed common consumption area, i.e., lease, use agreement, or deed.
 - (7) The type of alcoholic liquor or cereal malt beverages to be consumed and the means or methods which will be used to sell, dispense, or distribute alcoholic liquor or cereal malt beverages to be consumed in the proposed common consumption area.
 - (8) The identity and contact information of the on-site supervisors or managers responsible for the proposed common consumption area.
 - (9) The name and address of any establishment licensed to sell alcoholic liquor or cereal malt beverages for consumption on the premises thereof which is adjacent to the proposed common consumption area and which applicant knows has authorization or plans to obtain authorization from the Kansas Alcoholic Beverage Control to be attached to the proposed common consumption area.
 - (10) The name and address of any licensee who is eligible to be authorized by the Kansas Alcoholic Beverage control to participate in the proposed common

consumption area, if any exist in addition to the establishments named pursuant to paragraph nine above.

- (11) A list of all public streets, alleys, roads, highways and/or street rights of way within the proposed area and a statement as to whether such public streets, alleys, roads, highways and/or street rights of way will be closed to motor vehicle traffic during the period when consumption of alcoholic liquor or cereal malt beverages is authorized within the proposed common consumption area.
 - (12) An insurance certificate of general liability and liquor liability by an insurance company authorized to do business in the State of Kansas, which policy includes the City of Dodge City, its officers and agents as named insureds, and which provides general liability coverage in an amount not less than \$1 million dollars per occurrence and a minimum of \$100,000 property damage per occurrence. Proof of insurance shall be submitted to the City prior to issuance of the permit and continued maintenance of this insurance shall be a condition of the permit. This paragraph shall not apply when the City of Dodge City is the applicant.
 - (13) A plan as to how the permit holder will prevent off-premises consumption of alcoholic liquor or cereal malt beverages and the consumption of alcoholic liquor or cereal malt beverages by minors as part of the proposed common consumption area.
 - (14) A non-refundable licensing fee of \$100 dollars shall accompany all applications. Such fee shall not be required if the City of Dodge City is the applicant.
- (C) Applications shall be accompanied by a copy of a Common Consumption Area Permit Application submitted to the ABC.
- (D) Upon receipt of the application, application fee and all other necessary documents, the City Clerk shall forward the application to the following departments for review and comment: The office of the City Manager or Assistant City Manager; Dodge City Police Department; Dodge City Fire Department; Public Works Department, Department of Development Services, and the City Attorney. Such departments shall review the applications and accompanying documents within 30 days of receipt from the City Clerk. The departments shall provide comments to the City Manager's designee to be included in final staff recommendations to the City Commission for its consideration in approving or denying the request to establish a common consumption area. The City Manager or designee will assist the applicant with addressing concerns noted by staff following their review.
- (E) Following the review of the application by city staff, the applicant will be notified of a public hearing date scheduled before the City Commission. The Public Hearing may be scheduled during the same meeting of the City Commission as the meeting during which the Commission shall consider a Resolution establishing the common consumption area;

but the City Commission shall open the meeting to public comment during a public hearing prior to considering the Resolution. City staff shall make reasonable effort to notify in writing all owners of record of real property located within 200 feet of the area proposed for the common consumption area of the public hearing. The written notice required herein shall be placed in the mail with the postmark not less than 5 days prior to the date of the public hearing.”

SECTION 3: Section 3-903 shall be added to the City Code and shall read as follows:

“Authorization of Common Consumption Area by City Commission.

- (A) Following the review of an application for designation of a common consumption area by city staff the City Commission shall review the application and recommendations of city staff and may, by Resolution, authorize the possession and consumption of alcoholic liquor or cereal malt beverages in designated common consumption areas. In determining if approval should be given, the City Commission shall consider the following factors:
- (1) The adequacy of security to be provided in the common consumption area;
 - (2) The proposed closure of any street, alley or roadway and whether such closure would cause significant hardship to pedestrians or vehicle traffic and whether alternative routes are available for public transit and emergency vehicles;
 - (3) The zoning classifications for the proposed consumption area and the compatibility of the consumption area with other uses near the location with special consideration given regarding compatibility issues of applications which propose a common consumption area within three hundred (300) feet of any residential zoning district, public park, public or parochial school, church, or other place of worship;
 - (4) The distance between the proposed common consumption area and other common consumption areas approved by the City;
 - (5) Any protests or concerns expressed by neighborhood businesses, residents, or other citizens regarding the proposed common consumption area;
 - (6) The city staff’s review and comments of the proposed application; and
 - (7) If the application is for a renewal, the Dodge City Police Department, Dodge City Fire Department, and the Dodge City Planning and Zoning Department shall provide the City Commission with a report of all calls for service and number of arrests or citations issued for offenses occurring in or upon the designated common consumption area and the areas immediately adjacent to the common consumption area which are part of the common consumption area.
- (B) In addition, no common consumption area permit shall be issued to:

- (1) Be held at or on premises which do not conform to other provisions of the Codes of the City of Dodge City including the International Property Maintenance Code (IPMC) then adopted by the City of Dodge City or which do not conform to the Zoning Code of the City of Dodge City;
 - (2) A person who has been convicted of or has pled guilty to a felony within the five years preceding the application under the laws of this state or any other state or of the United States;
 - (3) A person who has had a liquor license revoked for cause under the provisions of Article 26 of Chapter 41 of the Kansas Statutes Annotated;
 - (4) A person who has been convicted of or has pled guilty to being the keeper or is keeping or has forfeited bond to appear in court to answer charges of being a keeper of any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is eighteen (18) years of age;
 - (5) A person who has been convicted or pled guilty to other crimes or misdemeanors opposed to decency and morality or shall have forfeited bond to appear in court to answer charges for any such violations;
 - (6) A person who is not at least 21 years of age;
 - (7) A person who, other than as a member of the governing body of the City of Dodge City or of Ford County, appoints or supervises any law enforcement officer, or who is a law enforcement official;
 - (8) A person who intends to carry on the business authorized by the permit as agent of another;
 - (9) A person who at the time of application for renewal of any permit issued hereunder would not be eligible for such license upon a first application; and
 - (10) Any person, if the spouse of such person would be ineligible to receive such license hereunder for any reason other than citizenship, or age, except that this subsection shall not apply in determining eligibility for a renewal permit or to a person whose spouse is a law enforcement officer.
- (C) If the City Commission determines that the application for designation of a common consumption permit is to be approved, the City Commission will adopt a Resolution setting forth the area designated as a common consumption area, the times, dates, and/or days of the week that consumption of alcoholic liquor or cereal malt beverages may be consumed in such area, a list of all public streets, alleys, roads, highways, and right of ways which may be closed and providing that all rules and regulations set forth in this chapter are to be complied with by the permit holder. The City Clerk shall provide the applicant a certified copy of the Resolution and submit a copy of the Resolution to the Director of the Alcoholic Beverage Control ("ABC") as soon as

practicable after approval of the Resolution by the City Commission but in no event later than ten business days after approval by the City Commission.

- (D) The Resolution approved by the City Commission and the permit issued for a common consumption area shall not exceed a period of one year. City staff shall provide a report to the City Manager regarding the status of a permitted common consumption area following an initial permit being in effect for six months. Such report shall contain information regarding any police incidents or reports of unlawful consumption of alcoholic liquor or cereal malt beverages occurring within the six-month period. Such permits are not transferrable or assignable.”

SECTION 4: Section 3-904 shall be added to the City Code and shall read as follows:

“Licensee Participation and Regulations.

- (A) A common consumption area permit allows the possession and consumption of alcoholic liquor and cereal malt beverages in the designated common consumption area. Licensees of establishments licensed to serve alcoholic liquor and/or cereal malt beverages may apply to participate in a common consumption area and obtain a Participation Permit as described herein. Each application for a Participation Permit shall be accompanied by a \$100 non-refundable application and permitting fee.
- (B) Adjacent Licensees:
- (1) Any licensee immediately adjacent to or located within a common consumption area may request that the licensee’s licensed premises participate in the common consumption area for the duration of the common consumption area permit. To request approval to participate in an approved common consumption area, licensees must submit a request to do so to the ABC on the form prescribed by the director of the ABC.
 - (2) Upon receiving written approval from the ABC to participate in the common consumption area, the licensee shall apply for a Common Consumption Participation Permit (herein “Participation Permit”) from the City of Dodge City on a form provided by the City Clerk. Approval of Participation Permit applications shall be under the discretion of the City Manager or designee. If approved, the Participation Permit term shall coincide with the term of the common consumption area permit issued by the ABC, subject to termination by the City for failure to abide by this Chapter or by the rules and regulations of the ABC.
 - (3) If approved, the establishment/licensee shall post the ABC approval and common consumption area Participant Permit in a conspicuous place on the establishment’s premises at all times

- (4) If an Adjacent Licensee no longer intends to participate in the common consumption area after obtaining a Participation Permit, the establishment/licensee shall provide a copy of the ABC withdrawal form to the City within 48 hours of submission to the ABC.
- (C) Non-Contiguous Sales: In addition to their licensed premises, licensees that have requested and received a Participation Permit may offer for sale, sell and serve alcoholic liquor or cereal malt beverage for consumption from one non-contiguous service area within the common consumption area, as designated and approved by the common consumption area permit holder. The licensee shall prominently display a copy of its drinking establishment license and the Participation Permit at its non-contiguous service area. The licensee shall seek permission to operate a non-contiguous service area through an application for approval of a non-contiguous sales area on a form provided by the City Clerk and shall not operate a non-contiguous sales area unless and until permission is received from the City in writing.
- (D) Non-Adjacent Licensees: Licensees not adjacent to a permitted common consumption area desiring to participate in the common consumption area during a special event may do so subject to proper application for and approval of a Special Event Permit.
- (E) No sales of alcoholic liquor or cereal malt beverage may occur within the permitted common consumption area, except as follows:
- (1) The sales are conducted by a licensed caterer in accordance with all requirements for a catered event, a separate temporary permit has been issued for the specific area, or a drinking establishment has been authorized by the permit holder to operate a non-contiguous service area in accordance with K.S.A. 41-2659(e)(2).
 - (2) In conformance with state law and regulations adopted by the ABC, the permit holder shall ensure all common consumption areas are clearly marked using a physical barrier or a clearly apparent line of demarcation to distinguish the areas where consumption is allowed. The permit holder shall be responsible for removing barriers promptly after the times approved for its common consumption area.
 - (3) Every common consumption area shall have signs approved by the City of Dodge City conspicuously posted identifying the boundaries of such area in a size and manner that provides notice to persons entering or leaving the area.
 - (4) All alcoholic liquor or cereal malt beverages consumed in a common consumption area must have distinctively different containers than those in which non-alcoholic drinks are served.
 - (5) No alcoholic liquor or cereal malt beverages may be served or consumed in glass bottles, glass containers, or glass vessels within the common consumption area.

- (6) No person shall remove or be allowed by the permit holder to remove any alcoholic liquor or cereal malt beverage from the boundaries of a common consumption area.
 - (7) Only properly licensed and zoned alcoholic liquor and cereal malt beverage licensees may participate in a common consumption area. All alcoholic liquor and cereal malt beverage served within a common consumption area or removed from a licensed premises into a common consumption area shall be served in a container that displays the licensee's trade name or logo or other identifying mark that is unique to the licensee.
 - (8) If the permit holder is any person other than the City of Dodge City, the permit holder shall provide to the City Clerk's office notification of any change, deletion, or addition of licensees who are participating in the common consumption area. Such written notification must be received within 10 business days of any such change in licensees participating in the area.
 - (9) No person shall possess, consume, or be allowed by the permit holder to possess or consume alcoholic liquor or cereal malt beverages inside the common consumption area that was not sold or provided by a licensee of an approved participant in the common consumption area.
 - (10) The establishment/licensee must ensure that the common consumption area permit is in effect prior to allowing patrons to possess or consume alcoholic liquor or cereal malt beverages in the common consumption area.
 - (11) All establishments/licensees shall at all times comply with laws, ordinances, regulations, and permit requirements related to the purchase, sale and consumption of alcoholic liquor and cereal malt beverages. All establishments/licensees shall be liable for all violations of laws governing the sale and consumption of alcoholic liquor or cereal malt beverages that occur on the establishment/licensee's premises.
- (F) The issuance of a common consumption area permit does not relieve any person from the obligation to obtain any other permit, license, or pay any additional fees required by the City of Dodge City or other governmental entity or department of the City of Dodge City that may be required regarding the planned event, including a Special Event Permit."

SECTION 5: Section 3-905 shall be added to the City Code and shall read as follows:

"Right of entry and inspection.

Common consumption area permit holders shall allow and enable entry to and inspection of any premises upon which a common consumption area exists by City officials. This right of entry and inspection shall not be revocable during the term of the permit. This right shall be at

any time when the premises are occupied and is not limited to hours when common consumption is authorized. Refusal of such entry shall be grounds for revocation of the permit.”

SECTION 6: Section 3-906 shall be added to the City Code and shall read as follows:

“Immediate Suspension Due to Immediate Threat to Public Safety.

- (A) The Chief of Police or Acting Chief may require a common consumption permit holder or common consumption participant permit holder to cease operations and disperse all patrons whenever conduct by disorderly patrons reaches a magnitude that presents an immediate threat to the public safety and well-being of the patrons and general public in the vicinity of the common consumption area. The common consumption area shall remain closed until the threat has passed.
- (B) The Chief of Police or Acting Chief may temporarily suspend a permit without five days' written notice or make additional security requirements without five days' written notice if it is determined that the permit holder has a lack of security sufficient to protect the public and the lack of security poses a substantial risk of harm to patrons or others. An emergency suspension without five days' written notice shall only be used in cases where there has been a significant violent act or a credible threat of future violence. The suspension shall be effective immediately upon verbal notification by the Chief of Police or Acting Chief or designee to the licensee, permit holder, manager, agent, or representative of the establishment/licensee and shall be effective for up to ten days as needed to restore or to ensure the safety of the public. In lieu of suspension, the Chief of Police or Acting Chief may require additional conditions of operation including but not limited to restricted hours, additional security personnel, wands, security cameras, bag checks, and restrictions on type of bags allowed in common consumption areas. The Chief, or designee, shall promptly complete a report outlining the basis for the decision to suspend the permit and recommendations to adequately remedy the deficiencies of the common consumption area's security or safety plans. A copy of the report shall be provided to the City Manager on the first business day following the suspension or the placement of additional conditions. The Chief of Police or designee shall officially notify the permit holder in writing by deposition such notice in first class mail to the address listed on the permit the first business day after suspension or imposition of additional conditions. The notice shall include the reason for the suspension or conditions, the length and dates of suspension, and rights of appeal.
- (C) If the Chief of Police or designee is unable to affect personal notification of an emergency suspension, notice will be posted upon the permit holder's property and sent by first class mail to the primary contact or owner listed on the license.
- (D) The permit holder or a designee shall meet with the Chief of Police or designee within three business days of an emergency suspension.

- (E) It is unlawful for any person to fail to comply with any directive issued by the Chief of Police or designee under the authority of this section.
- (F) The provisions of this chapter are in addition to any other violation enumerated within the ordinances of the Code of the City of Dodge City. This Chapter in no way limits the penalties, actions, or abatement procedures which may be taken by the City for a violation of any ordinance of the City or statute of the State of Kansas.

SECTION 7: Section 3-907 shall be added to the City Code and shall read as follows:

“Penalty for Violation.

Unless otherwise specified, violation of any provision of this article and amendments thereto, for which a penalty is not otherwise specifically provided is punishable by a fine not less than \$100 dollars and not to exceed \$500 dollars.”

SECTION 8: SEVERABILITY.

If any section, provision, sentence, clause, or phrase of this Ordinance, or if its application in a specific instance is found to be invalid, the remainder of such Ordinance and its application shall remain in full force and effect.

SECTION 9: EFFECTIVE DATE.

This Ordinance shall take effect from and following its publication in the official city newspaper as provided by law.

PASSED BY THE GOVERNING BODY OF THE CITY OF DODGE CITY, KANSAS IN
REGULAR SESSION, AND APPROVED BY THE MAYOR, THIS 15th DAY OF
September, 2025.



JEFFERY J. REINERT, MAYOR





CONNIE MARQUEZ, CITY CLERK

